

**THE COUNTY OF MORRIS  
ENVIRONMENTAL HEALTH ACT  
WORK PLAN  
(CEHA)**

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## **INTRODUCTION:**

The County Environmental Health Act (N.J.S.A.26:3A 2-21, *et seq.*, Appendix I), requires that an Environmental Health Work Program be promulgated for all of the 21 Counties in New Jersey. This Act has been supplemented by regulations entitled "County Environmental Health Standard of Administrative Procedure and Performance" (N.J.A.C. 7:1H-1.1 *et seq.*, effective September 1, 1980 (Appendix J). The regulations establish the performance standards that must be met in the County Environmental Health Act Programs.

The statute and regulations provide for the preparation and promulgation of a Work Program as approved by the Board of Chosen. Morris County has historically provided environmental health services through municipal health departments as agents of autonomous Boards of Health and as such have a valuable resource present at the municipal level to supplement the County of Morris in the administration and implementation of County Environmental Health Act Programs.

The County Environmental Health Act recognizes the importance of maintaining environmental performance and administrative standards by means of a cooperative effort between the NJDEP and county/municipal (local) health agencies. When specific performance standards are established requiring compliance by local health delivery jurisdictions, the following purposes are served:

- { environmental health services are provided efficiently and effectively by local units;
- { the State formalizes its supervisory relationship over those agencies which deliver the services;
- { there is greater accountability at both local and State levels over environmental health programs.

The County Environmental Health Act (hereinafter referred to as the "Act") N.J.S.A. 26:3A2-21, *et seq.*, authorizes the department to delegate authority for the implementation and enforcement of one or more environmental health laws, or portions thereof, including the rules and regulations adopted thereunder to certified local health agencies (N.J.S.A. 26:3A2-28). "Certified local health agency" is defined as a local health agency satisfying the administrative and performance standards adopted by the Department (N.J.S.A. 26:3A2-23(o)).

This Work Plan has been developed for Lead Agency Certification by the Morris County Board of Chosen Freeholders in the following areas: Solid Waste Management, Emergency Response (HAZMAT), Air, Noise, Water, Pesticides, and GIS. This Work Plan provides a detailed description of the manner by which the County of Morris proposes to meet the administrative and performance standards throughout the County (N.J.S.A. 26:3A2-23; N.J.A.C 7:H.1 *et. seq.*).

The Work Plan provides a description of the specific activities to be undertaken identifying the personnel and resources required to properly carry out those activities. The Work Plan delineates responsibilities for its implementation within the County, and provides a time schedule for achieving full implementation. The Work Plan as submitted demonstrates that the County of Morris has, through its Lead Agency, InterLocal services agreements, and IntraCounty agreements, availability of adequate technical expertise, staff levels, equipment and other resources necessary to properly implement and enforce the delegated environmental regulations. The cornerstone of this workplan is delegation of CEHA authority to enhance the effectiveness and efficiency of environmental programs; utilization of existing municipal health department personnel throughout the County; void the establishment of duplicative administrative models at the County level; and recognize the need for uniform administration of environmental programs (N.J.S.A. 26:3A2-28). The use of municipal health departments and their personnel as partners will significantly reduce the economic impact of the CEHA program.

The Work Plan has been developed to empower both county and municipal agencies with enforcement authority of State regulations within the County of Morris at sites which may include:

- a. 256 public transient non-community drinking water supplies,
- b. 99 public non-transient non-community drinking water supplies,
- c. 67 solid waste facilities,
- d. 20 physical cross connections to a public water supply,
- e. 218 regulated discharges to either surface or ground water,
- f. 1559 regulated underground storage tanks,
- g. 89 autobody shops with air discharge stacks,
- h. 114 dry cleaners with air discharge stacks,
- i. 332 gasoline stations with air discharge stacks.
- j. 178 "B" sources

## **GENERAL ADMINISTRATION:**

The Morris County Board of Chosen Freeholders, pursuant to the authority of N.J.S.A. 26:3A-2.1, *et seq.*, through a formal resolution on xxxx, 2002, establishes the Morris County Department of Health as the Lead Agency responsible for program implementation throughout Morris County. This Agency is charged with providing the administrative function of the County Environmental Health Act as described in N.J.S.A. 26:3A-2.14, *et seq.*

#### **Functions of the Health Officer:**

The Health Officer of the Lead Agency appointed pursuant to N.J.S.A. 26:3A-2.14 and N.J.S.A. 26:3A-2.21 *et seq.* administers the County Environmental Health Act Program by serving as its chief administrative, enforcement and fiscal officer. The duties of the Health Officer shall be to:

- { develop and update an annual Work Plan pursuant to N.J.A.C.7:1H-2.3.
- { develop an annual operating budget for submission to the Morris County Board of Chosen Freeholders.
- { apply annually to the New Jersey Department of Environmental Protection for available grants.
- { obtain, review and monitor IntraCounty Service Agreements pursuant to N.J.S.A. 40:8A-1, *et seq.*, for the purpose of providing (as stated in the Agreements), service to the Lead Agency as its agents in order to carry out the provisions of the County's certified Work Program.
- { delegate enforcement authority to the agents of the Lead Agencies to monitor compliance with and take action against violators of environmental health laws, regulations, ordinances, codes, rules and standards pertinent to those activities as stated in the Agreements. Enforcement undertaken by those agents shall be for and in the name of the Lead Agency.
- { provide the necessary reporting of the delegated County Environmental Health Act Program activities to the NJDEP, the Morris County Board of Chosen Freeholders, and all other local or state agencies as the case may warrant.
- { work with appropriate state, county and local officials for the maintenance of County Environmental Health Act activities and improvement of County Environmental Health Act Programs and related policies.
- { plan priorities, long term goals and annual objectives.
- { develop annual program plans that are formed and incorporate in work program updates and grant applications.
- { coordinate and facilitate the Work Program.
- { develop and continuously refine internal standard operating procedures that conform to NJDEP procedures.
- { track work progress and facilitate achievement of output targets.
- { develop data collection, storage and reporting systems that conform to NJDEP formats.
- { coordinate training on an ongoing need in all program areas. As training coordinator identify training needs and opportunities, schedule courses, recommend appropriate certification and maintain records on course attendance and completion for all Lead Agency staff and staffs of the IntraCounty Agreement Agencies and local Health Departments.
- { pursue additional funding opportunities.

#### **Administrative Implementation:**

The Solid Waste and HAZMAT Response programs are carried out respectively by the Morris County Municipal Utilities Authority and the Morris County Office of Emergency Management as agents of the Lead Agency (See Appendix A). Air, Noise, Water, and GIS programs are planned to be implemented by the eighteen (18) municipal Health Departments serving the thirty nine (39) municipalities within Morris County. Authorization to perform the required NJDEP functions for each of these programs will be granted

by InterLocal Service Agreements between each municipal Health Department and the Morris County Lead Agency (see Appendix B). In those instances where an InterLocal service agreement is not signed, the Lead Agency shall be responsible for performing the program functions of the NJDEP.

The Morris County Office of Emergency Management works closely with municipal, state, federal and other emergency management groups coordinating emergency planning, response, and recovery programs. A team will be created whose responsibility and capability will be to provide emergency response 24 hours per day, seven days per week. The Lead Agency is responsible for monitoring of solid waste disposal methods for the entire County. It will coordinate its activities with the Morris County Municipal Utility Authority (MUA). The MUA is responsible for the planning, promotion, and implementation of solid waste disposal strategies including recovery of reusable materials through recycling. On a County wide basis, regularly scheduled residential curbside pickups of recyclables are performed in those municipalities who contract with the County of Morris for recycling services (Appendix K) and transported to the Morris County owned recycling center for processing and material marketing. The Lead Agency will assist the Morris County MUA in conducting a household hazardous waste disposal program which will be offered to residents countywide. Under the oversight of the Health Officer, there is sufficient County wide human resource capability to meet the administrative and performance standards of the existing programs and those for which delegation is sought. (See Appendix F). The County Board of Chosen Freeholders will assure that effective and efficient coordination and delivery of all delegated services exist between and among the Lead Agency, Morris County Office of Emergency Management and Municipal Health Departments (see Appendix L).

The Health Officer of the Lead Agency shall be responsible for developing the specific details of this Work Plan. Further, the schedule of implementation for each of the duties shall be as follows:

1. The Work Plan will be submitted to NJDEP for approval.- on xxxxx, 2002.
2. The 199x Grant Application will be submitted to NJDEP on xxxxx, 2002 and notice of award will be received xxxxx
3. The IntraCounty Agreements are attached as part of this work plan package.
4. The InterLocal Agreements are attached as part of this package.
5. Implementation of newly requested programs will occur upon notification from NJDEP of the Work Plan approval.
6. Upon receipt of Work Plan approval and delegation, the Health Officer of the Lead Agency will report to the NJDEP all delegated activities that occur within the County, on reports and forms approved by the DEP.
7. Upon receipt of Work Plan approval and delegation, the Health Officer of the Lead Agency will meet no less than quarterly with the emergency management coordinator, the Morris County Health Officers Association, and a Freeholder (or representative thereof) to discuss matters articulated in the Work Plan.
8. Upon receipt of Work Plan approval and delegation, the Health Officer of the Lead Agency will meet no less than monthly with the municipal health officers and the Governmental Public Health Partnership (GPHP) of Morris County to discuss matters articulated in the Work Plan.

#### COUNTY INTERDEPARTMENTAL COOPERATIVE WORK PLAN PROGRAM SPECIFICS

As indicated in this Work Plan, the Lead Agency will utilize, in addition to its existing staff, the Morris County Office of Emergency Management and existing municipal health agencies to provide environmental health services. A memorandum of understanding approved by the Board of Chosen Freeholders is a part of this Work Plan identified as Appendices A & B. Following are the narratives with respect to the work plan specifics for the CEHA programs for which certification is sought.

## **SOLID WASTE CONTROL PROGRAM:**

### **Purpose:**

- A. To integrate the solid waste activities of the County of Morris and the NJDEP in accordance with N.J.S.A. 26:3A-2.21, the County Environmental Health Act.
- B. To ensure the maximum effective use of manpower and resources for solid waste activities.
- C. To enforce applicable solid waste programs for the protection of the public health and welfare.
- D. To provide for effective communication between agencies on solid waste control issues.

### **Program Standards:**

- A. Monitor compliance with the rules and regulations of the NJDEP concerning the operation of solid waste facilities and the activities of solid waste collectors and haulers.
- B. Report the results of such monitoring to the NJDEP for enforcement or for County enforcement actions.
- C. Enforce the Solid Waste Management Act, N.J.S.A. 13:IE-1, *et seq.*; the Morris County District Solid Waste Management Plan, as most recently amended and certified by the NJDEP; the rules and regulations as specified in N.J.A.C 7:26-1, *et seq.* All enforcement efforts shall be coordinated with the NJDEP to obtain consistent enforcement and to preclude duplication of effort.

### **Objectives:**

- A. Ensure that solid waste disposal practices occur without environmental degradation through routine compliance and complaint investigations;
- B. Prevent active facilities from receiving non-permitted waste;
- C. Inform industry, commercial establishments, institutions and residents on the benefits of recycling;
- D. Discourage promiscuous dumping through enforcement by the local health departments;
- E. Promote reuse, recycling and reduction of materials in Morris County.

In pursuit of the objective and pursuant to the provisions of the Solid Waste Management Act (N.J.S.A. 13:IE-1 *et seq.*); and the County Environmental Health Act (N.J.S.A. 26:3A-2.21 *et seq.*), the Lead Agency, accepts solid waste management program responsibilities as summarized in the implementation specifics section hereunder.

### **Plan of Implementation:**

#### *General:*

The Lead Agency will perform regular inspections of solid waste facilities as specified in the annual CEHA grant agreement for compliance with the Solid Waste Management Act and regulations adopted there under; and to enforce said laws and/or regulations by the making and signing of a complaint and summons for the violation, by serving the summons upon the violator and thereafter filing the complaint promptly with a court having jurisdiction.

These routine inspections will evaluate among other things, the size of working face, litter control, cover, odor control, fires, etc., and compliance generally can be determined through physical observations of

the facility. The Lead Agency, through InterLocal agreements with Parsippany Troy Hills Health Department and Mount Olive Health Department shall perform regular inspections of solid waste transfer stations. Processing and resource recovery facilities, and compost areas will be inspected by the Lead Agency or its designated agent for compliance and to enforce said laws and/or regulations by the making and signing of a complaint and summons for their violation, by serving the summons upon the violator, and thereafter filing the complaint promptly with a court having jurisdiction.

The above referenced subsections include general housekeeping requirements at these types of facilities and compliance can be determined through physical inspection of the premises. Regular inspections and roadside checks of collector/haulage will be performed by either the Lead Agency or municipal health departments throughout Morris County for compliance and to enforce said laws and/or regulations by the making and signing of a complaint and summons for their violation, by serving the summons upon the violators and thereafter, filing the complaint promptly with a court having jurisdiction.

The above referenced subsections cover general operation requirements for collector/haulers including the requirements for retaining the NJDEP Registration Card in the vehicle and having proper NJDEP numbers displayed on the vehicle. The collector haulers can be checked for compliance when encountered during the course of an inspection at a solid waste facility, or at a roadside check point with the aid of the local police. Municipal Health Departments will perform regular investigations of illegal solid waste activities. This includes inspection/investigation of promiscuous dumping, illegal landfilling activities, improper storage of solid wastes. Compliance can be effected through use of regulations contained in the Solid Waste Management Act.

The NJDEP will retain primary responsibility for monitoring and inspecting solid waste facilities for registration and engineering design violations. The New Jersey Department of Environmental Protection retains primary responsibility for monitoring and enforcement of solid waste collector/hauler registration requirements under N.J.A.C. 7:26-3.2 and 3.3. Responsibility for fee collection and registration of facilities and collector/haulers is mandated to the NJDEP.

*Specific:*

Routine Solid Waste Facility Inspections:

<i>Facility #</i>	<i>Facility Name</i>	<i>Operation Type</i>	<i>Status</i>
1403000611	Butler Borough Compost	Compost	Closed
1404000612	Chatham Borough Compost	Compost	Operating
1405000613	Marchetto SLF	Sanitary Landfill	Closed
<i>Facility #</i>	<i>Facility Name</i>	<i>Operation Type</i>	<i>Status</i>
1405000614	Chatham Twp. Compost	Compost	Operating
1405001001	S. Rotondi & Sons	Transfer Station	Operating
1407000615	Combe-SLF-Chester Site	Sanitary Landfill	Closed
1408001329	Denville Twp. SLF	Sanitary Landfill	Unregistered
1408000616	Dover Town SLF	Sanitary Landfill	Closed
1409000517	Dover Public Works Yard	Compost	Operating
1409001016	Dover General Hospital	Medical Waste	Operating
1410000618	Metro LTD, Inc. SLF	Sanitary Landfill	Closed
1410000619	Deskovick SLF	Sanitary Landfill	Closed
1410000620	E. Hanover Twp.	Compost	Closed
1410000621	E. Hanover Twp.-Luther	Compost	Closed
1410001067	Novartis Pharmaceuticals	Medical Waste	Operating
1410001392	Novartis Pharmaceuticals	Resource Recovery	Operating
1411000622	Florham Park Borough	Sanitary Landfill	Closed



1411000623	Green Valley Service	Compost	Closed
1411000624	Florham Env. Cntr.	Compost	Operating
1412000625	Whippany Paper Board	Sanitary Landfill	Closed
1412000626	Hansch SLF	Sanitary Landfill	Closed
1412001220	Parcel C. Landfill	Sanitary Landfill	Closed
1414000628	Jefferson Twp.	Sanitary Landfill	Closed
1415001093	Summerdown Realty	Compost	Closed
1418000629	Mendham Borough	Sanitary Landfill	Closed
1420001243	Mine Hill Compost	Compost	Operating
1421000630	Ecology Club, Inc.	Sanitary Landfill	Closed
1421000631	Indian Lane East-Montville	Compost	Operating
1421001384	Como & Sons	Compost	Operating
1422000632	Villa Walsh SLF	Sanitary Landfill	Closed
1422000633	Sisters of Charity	Compost	Operating
1423001253	Warner-Lambert Co.	Medical Waste	Operating
1424000634	Morristown	Compost	Closed
1424001049	Morristown Memorial Hosp.	Medical Waste	Operating
1425000635	Mountain Lakes Borough	Compost	Operating
1426000636	Mt. Arlington Borough	Sanitary Landfill	Closed
1427000637	Combe-SLF-Mt. Olive Site	Sanitary Landfill	Closed
1427000638	DEP Stephens PK	Compost	Closed
1427000639	Mt. Olive Twp.	Compost	Closed
1427000640	Morris County MUA	Transfer Station	Operating
1427001115	Camp Pulaski	Compost	Operating
1427001328	Musconetcong Sewage SLF	Sanitary Landfill	Un-Registered
1428000641	U S Minerals Prod., Inc.	Sanitary Landfill	Closed
1428000642	Netcong Borough	Compost	Operating
1429000643	Parsippany Troy Hills	Sanitary Landfill	Closed
1429000644	Morris County MUA	Transfer Station	Operating
1429001102	Parsippany Troy Hills	Compost	Closed
1430000645	Passaic Township	Sanitary Landfill	Closed
1431000646	Pio Costa	Sanitary Landfill	Closed
1431000647	Pequannock Township	Compost	Closed
1431000648	Morris County Shade Tree	Compost	Operating
1431001011	Chilton Memorial Hospital	Medical Waste	Closed
1431001244	Pequannock Township	Compost	Closed
1432000649	Russ-Reid Residual	Transfer Station	Closed
<i>Facility #</i>	<i>Facility Name</i>	<i>Operation Type</i>	<i>Status</i>
1432000650	Randolph Township	Compost	Operating
1433001367	Riverdale Quarry Recycling	Recycling Center	Not Operating
1435000651	Rockaway Township	Sanitary Landfill	Closed
1435000652	Lavin Brothers, Inc.	Sanitary Landfill	Closed
1435000653	Rockaway Township	Compost	Operating
1435000654	Green Pond Corp.	Compost	Closed
1436000655	Fenimore	Sanitary Landfill	Closed
1436000656	Hercules, Inc.	Sanitary Landfill	Closed
1436000657	DEP - Hopatcong Park	Compost	Closed
1436001295	Ox Contractors	Recycling Center	Operating
1438000658	Hacklebarney St. Park	Compost	Closed
1439000659	Wharton Borough	Sanitary Landfill	Closed
14390001167	Mount Hope Rock, Inc.	Recycling Center	Operating

Human Resources: The Lead Agency will insure that sufficient staff is provided to meet the solid waste program goals and objectives as described in the annual CEHA agreement.

### **Investigative Procedures, Enforcement, and Penalty Assessment:**

1. Notice of Violation ("NOV") - Whenever an inspection discloses a violation of any NJDEP Solid Waste Regulation, the agent for the Lead Agency will issue an NOV. The notice will indicate, among other pertinent facts, the time allowed for compliance, if appropriate.

2. Penalty Assessment (PA) - Morris County will implement NJDEP Solid Waste Management "Penalty Assessment Guidelines" as amended by the NJDEP Penalty Schedule for Municipal Summons Program. The Guidelines and Penalty Schedule are hereby incorporated as part of this Work Plan (Appendix H).

When a follow-up of an NOV (issued without a PA) indicates a lack of compliance or when an NOV is issued with a PA, the PA will be generated using the "Penalty Assessment Guidelines" and/or recommended initial penalty schedule. The PA will be determined by the Health Officer based upon input from the field investigator and the solid waste management coordinator relative to the severity of damage and conduct of the violator. The enforcement agency may conduct an informal conference so as to present the facts which may mitigate the violation(s) and determine if a settlement is warranted. The Health Officer of the Lead Agency or his designee will preside at the informal conference.

3. Failure of the violator to comply with a penalty assessment and/or a penalty assessment settlement shall result in the issuance of a municipal court summons.

#### *Explanation of Terms and Their Usage in Penalty Assessment:*

##### Classification or Regulations:

With certain exceptions all rules and regulations associated with the "Spill Compensation and Control Act" and the "Solid Waste Management Act" are categorized into five classes. Classification has been undertaken to provide an element of consistency in assessing penalties for violations of similar magnitude. The criteria for classification are two fold;

1. The potential or likelihood for harm to human health or the environment resulting from a violation of a particular regulation;
2. The significance of the role played by the subject regulation in the enforcement scheme.

In general, the "importance" of a regulation is determined by the probability of damage to health or the environment resulting from a failure to comply with the regulatory requirements. For example, certain regulations, though necessary, will probably not result in a significant increase in the probability of damage in the event of non-compliance. Therefore, it seems appropriate to apply lower penalties to violations that do not significantly increase the probability of harm. Judgments concerning the probability of damage have been used to pre-classify each of the regulations into one of the five general classes.

Violations of regulations which are specifically designed to protect the health and welfare of the general public from the potential or likelihood of harm are considered the most serious and are categorized as Class I. Violations of regulations which require routine record keeping or reporting are considered the least serious and generally are categorized as Class V.

The penalty policy used by EPA has categorized existing hazardous waste regulations into three separate classes (Class I, II and III). To maintain consistency, the Morris County Work Plan shall categorize comparable regulations into the same classes.

*Damage:*

For the purposes of assessing penalties, "damage" is defined as the potential or likelihood of harm to human health or the environment resulting from a violation of a particular regulation.

Two elements will be used in considering damage: (1) the extent of actual or potential harm that has occurred or could occur as a consequence of the violation; and (2), the likelihood that the violation will lead to potential harm. Emphasis is placed on the potential harm represented by the violation rather than the actual harm.

In selecting the appropriate damage category, the following will be considered:

- a. Amount of waste or substance involved:  
Based on the type and classification of the waste or substance, is the amount large or small?
- b. Characteristics of the waste or substance involved:
  - i. Is it classified as a hazardous substance, a hazardous waste, or a solid waste?
  - ii. If it is classified as a hazardous waste, what are its characteristics (corrosive, toxic, ignitable, etc.); is it a listed waste; is it an acutely hazardous waste?
- c. Specific situation:
  - i. Is human life or health threatened? To what extent?
  - ii. Is animal life threatened? To what extent?
  - iii. Is the environment threatened? To what extent?
  - iv. Are potable water supplies threatened?
  - v. Can the potential/actual damage be prevented/rectified?

*Damage Categories Defined:*

Major: Due to the waste or substance involved, the violation can lead to a high degree of harm to human health or the environment. The circumstances surrounding the case suggest that such harm was likely to occur.

Moderate: This category is chosen when the violation involves a waste or substance that is highly hazardous, but the likelihood of damage resulting from noncompliance is low; or the waste or substance involved does not exhibit characteristics that represent a major threat to human health or the environment.

Minor: This category encompasses those violations where the likelihood of harm and the degree of potential harm are considered low.

*Conduct:*

For the purposes of assessing penalties, conduct is defined as the extent to which the violator's conduct deviates from the requirements of the regulation. It refers only to the actions that constitute the violation. Matters related to the violator's intent, culpability, etc., are not considered under conduct, but are considered under the penalty adjustment phase. Conduct relates to what has occurred within the specific violation and not why the violation occurred or who committed the violation.

In considering conduct, only the specific violation is considered and the range of potential noncompliance with the specific regulation. For example, a violating firm may be substantially in compliance with the provision of the regulation or it may have totally disregarded the requirements of the regulation, or it may fall at a point between these two extremes. In determining the categories of conduct, the degree of noncompliance must be determined, considering the reasons why the violation was committed, and the intent of the violator. Issues not relevant in determining conduct of the violator, such as enforcement history are not considered.

#### *Conduct Categories Defined:*

**Major:** The conduct of the violator deviates from the requirements of the regulation to such an extent that the regulation is completely ignored and none of its requirements complied with; or, although some of the requirements are met, violations of other requirements severely impair the operation of the regulation.

**Moderate:** The conduct of the violator deviates from the requirements of the regulation but not to the extent that the major category is justified. The functioning of the regulation is impaired but some of its important requirements are complied with.

**Minor:** The conduct of the violator deviates somewhat from the regulatory requirements but the most important requirements are met. The regulation functions nearly as intended, but not quite as well as if all requirements had been met.

#### *Multiday Violations:*

The maximum penalty allowed under the "Solid Waste Management Act" is \$50,000 per day with each day that the violation continues constituting an additional, separate and distinct offense.

To calculate the base penalty, the penalty arrived at through a conduct and damage matrix is multiplied by the number of days of violation. However, per day penalties should be assessed only in those instances where the existence of noncompliance poses a continuing threat to harm.

- Reasons for not assessing per day penalties in all cases may be attributed to:
- a. penalties are too large to be reasonable;
  - b. penalties will not reflect the seriousness of the violation;
  - c. penalties are inequitable.

Violations which by their nature present a serious risk to human health or the environment if allowed to continue would compound this risk each day that the noncompliance continues, would be considered for per day penalty imposition.

In certain cases, it may be necessary to reduce the amount applied to each day of violation when efforts are made by the violator to rectify a violation resulting in a decrease in the potential for harm associated with the violation.

For those violations which extend over a period of time that do not meet the criterion for per day assessment the length of time that the violation continues should be considered when evaluating conduct (the longer the period of noncompliance the higher the associated conduct level). In addition, the length of time of violation can be a determining factor in adjusting penalties based on recalcitrance.

#### *Cooperation:*

It is presumed that a party will make all good faith efforts to comply with the regulations and, therefore, a cooperative spirit to comply becomes the standard.

Adjustments in the base penalty are based on deviations from this standard. Downward adjustments are made only for extraordinary efforts on the part of the violator. Upward adjustments are made for recalcitrance and refusals on behalf of the violator.

#### Extraordinary Efforts:

The Lead Agency will recognize extraordinary efforts on behalf of a party if he/she uses such efforts to meet the goals of the Lead Agency or its delegated agent, and exceeds minimum regulatory requirements. Subsequently, a downward adjustment in the base penalty may be granted as an incentive for such efforts.

The Lead Agency will recognize extraordinary efforts taken by a party to rectify any damaged or environmental harm resulting from noncompliance. Such efforts must be extraordinary in nature, exceeding the minimum required by the regulations, before a reduction in the base penalty would be considered. This reduction also is designed to encourage remedial actions that exceed regulatory requirements in responding to a problem.

The downward adjustment in the base penalty in such instances should be no more than the cost differential between extraordinary efforts and ordinary efforts to rectify damages or no more than the cost differential between innovative technology and existing technology. Where extraordinary efforts to rectify damages are exhibited by the violator and cost differential are not readily available, a downward adjustment in the base penalty of 50% is recommended.

#### Recalcitrant:

Lack of cooperation on the part of a violator can result in increases in environmental harm, enforcement time, and costs. Increased penalties, shifting the monetary burden resulting from such behavior from the Department, the Lead Agency, or its designated agent to the parties creating the problem, are in order to serve as a deterrent to future similar behavior. Recalcitrance may be in the form of obscuring the existence of a violation or creating unnecessary obstacles to the quick resolution of a case. An upward adjustment in the base penalty of 100% is recommended.

#### Refusals:

Refusal by a party to comply with regulations or to permit entry or to allow cleanup operations to take place is a most serious offense, and an upward adjustment in the penalty is required. It is recommended that the base penalty be adjusted upward by 500% or to the maximum, in addition to seeking immediate injunctive relief.

#### *Intent:*

It is assumed that everyone will make a good faith effort to comply with the regulations. However, it is recognized that there are violations either totally beyond the control of the violator or within control of the violator and numerous steps in between. The Lead Agency may reduce or increase a penalty based on intent.

#### Lack of Control:

Violations resulting from circumstances outside the control of the violator may result in a reduction of the penalty. Examples to consider may be an "Act of God," the base penalty for which may be adjusted downward by 100%. Lesser percentages of reduction may be used if the violation in question is only partially out of control of the violator. Reduction for lack of control over circumstances should not be applied if the situation could have been predicted with reasonable accuracy prior to the violation.

#### Intentional or Willful Violations:

Where it is clear that the violation was willfully and intentionally committed, the penalty shall be increased upward of 100%. Where the violation is willful or intentional and actual or potential harm has occurred or could occur as a result of violations, the Lead Agency may seek maximum penalties as well as injunctive relief.

#### *Enforcement History:*

Enforcement history is an indicator of good or bad faith and can increase a penalty since continued violations indicate a lack of necessary concern for the safety of human health and the environment. Continued violations, especially those of similar regulations may indicate previous penalties were not high enough to bring about compliance. When considering the enforcement history, recent violations are to be considered more relevant than violations occurring in the distant past. Two types of prior violations for which citations have been issued are to be considered:

a. repeat violations of the same or similar regulations: For these types of violations there will be a 100% upward adjustment in the base penalty for each repeat violation in the preceding 12 month period and a 50% upward adjustment in the base penalty for each repeat violation in the period from 12 months to 24 months preceding the most recent violation.

b. prior violations of unrelated regulations: For these types of violation there will be a 50% upward adjustment in the base penalty for each violation in the 12 months preceding the most recent incident and a 25% upward adjustment in the base penalty for each violation in the period from 12 months to 24 months preceding the most recent violations.

The enforcement history will be reviewed with respect to repeat violations and when it becomes apparent that administrative actions including but not limited to NOV'S, Civil Administrative Penalties and Administrative Orders are not sufficient to remedy the violation, a referral to the NJDEP for injunctive relief will be made. Guidelines for referrals by violation class are as follows:

<u>Number of Violations in a Two Year Period</u>	<u>Same Regulations</u>
Class I Violation	2
Class II Violation	4
Class III Violation	6
Class IV Violation	8
Class V Violation	8

#### *Economic Benefit:*

It is not the policy of the County of Morris or the Work Plan to allow failure to comply with a regulation or delayed compliance with a regulation to result in the violator obtaining an economic advantage over its competition. Therefore, the penalty must reflect any economic benefit gained by the failure to comply or delayed compliance thus eliminating the competitive advantage.

Examples:

- a. failure in making needed capital investments,
- b. use of inexpensive, improper operating procedures,
- c. use of inexpensive,, substandard packing materials,
- d. failure to comply with financial responsibility requirements.

The penalty must both deter future violations and remove economic incentive. The economic gain achieved by noncompliance is to be added to the penalty.

#### *Ability to Pay:*

In general, the Lead Agency will not adjust penalties based on the violators' inability to pay and continue to operate. However, under certain circumstances, a penalty may be reduced. These circumstances occur when the violator provides a vital service and is of great importance to the local economy and, if the penalty is paid, will result in the closure of the facility; or the violator is an individual and the penalty is so severe that, if paid, the individual would suffer severe economic and personal hardship.

#### *Multiple Violations:*

When there are two or more regulatory violations occurring simultaneously, the total penalty is to be determined by summing the separately assessed penalties.

#### *Penalty Schedule for Municipal Summons Program:*

The NJDEP Division of Solid Waste Management Penalty Schedule as per penalty guidelines is incorporated into this Work Plan.

#### **Forms:**

The Lead Agency has the following forms and documents in inventory for solid waste enforcement activities:

- Case (complaint) forms
- Investigative summary
- Notice of noncompliance (NNC)
- Notice of Violation (NOV)
- Penalty Assessment (PA)
- Transfer Station/Landfill Inspection Report Form
- Compost Facility Inspection Report Form

## Recycling Facility Inspection Form

### **Training:**

The Lead Agency and Municipal Health Department field investigators have been and will continue to be trained by NJDEP trainers. Ongoing training programs will consist of updated inspection and investigative training courses as offered by the NJDEP augmented by continuing education seminars and conferences as they become available. The Lead Agency Health Officer shall be the training coordinator.

### **Emergency Response:**

The Lead Agency will establish a schedule of after hour coverage so that a solid waste field investigator is available for any after hour matter requiring an incident response. The schedule and/or on-call procedure will be coordinated through the Communications Section of the County Sheriff's Department.

### **Reporting:**

The Lead Agency will report all its solid waste program activities on approved reporting forms to the NJDEP in accordance with the annual CEHA grant agreement.

Notification Protocol: The Lead Agency will notify NJDEP Solid Waste Compliance and Enforcement (Solid Waste) Program of enforcement actions, with at least five days prior notice before instituting court action or conducting a settlement agreement. This notice will be faxed or e-mailed to Solid Waste. In addition, follow-up reports on the outcome of a settlement conference or court action, including the penalty assessment and compliance (if applicable) will be provided to Solid Waste. This information is necessary to avoid duplication of effort, and allow Solid Waste to verify consistent enforcement and penalty assessments are occurring state-wide.

### **Summary:**

#### *Implementation:*

It is believed the Solid Waste Management Program Work Plan as herein above submitted establishes that the Lead Agency should be delegated with the authority to be the agent of the NJDEP and certified so by the Commissioner.

The Work Plan as submitted demonstrates that the human resources, the administrative procedural mechanisms, the equipment, the investigative and enforcement capabilities, and necessary programs are all in place.

The Lead Agency together with Municipal Health Departments throughout Morris County will inspect all solid waste facilities located within Morris County classified as: Open Sanitary Landfills, Closed Sanitary Landfills, Transfer Stations, Compost Facilities, Recycling Facilities, Farmland Mulch Sites, Resource Recovery Facilities, Contaminated Soil generator Sites, etc.

The Lead Agency together with Municipal Health Departments throughout Morris County will respond to any and all solid waste incidents/complaints which, when received, will be entered on individual case forms which are sequentially numbered to ensure an accurate tracking system.

Any investigation performed which results in the issuance of a Notice of Violation will specify a compliance schedule. Compliance is attained by follow-up inspections performed until the violation is abated.



Continuation of a violation determination by Lead Agency directly or by performing a NJDEP compliance follow-up inspection will result in the issuance of a Penalty Assessment or legal action.

The Lead Agency provides scheduled after hours emergency coverage so an inspector is available for immediate response.

The Lead Agency through IntraCounty Agreement with the Morris County MUA will conduct waste flow investigations to check for proper origin and destination and certification of waste load origins. Violations thereof are documented, and result in stringent enforcement action and Penalty Assessments.

The Lead Agency through IntraCounty Agreement with the Morris County MUA will conduct at least two (2) yearly household hazardous waste collection days whereby all Morris County homeowners and other small generators can dispose of various chemicals, paints, batteries, automotive fluids and tires in an environmentally responsible manner.

The Lead Agency through IntraCounty Agreement with the Morris County MUA affords the ability for each municipality to provide their residents on a regularly scheduled basis, residential curbside pick-up of newspapers, magazines, glass containers, aluminum cans, corrugated cardboard, and transports those recyclables to the County owned and operated Recycling Center for separation, bulking and market resale.

The Lead Agency through IntraCounty Agreement with the Morris County MUA conducts inspections of generators/haulers to ensure that recyclables do not appear at Transfer Stations for improper disposal.

When all of the requirements, objectives, and activities listed within this Work Plan are met, Morris County anticipates that the NJDEP will and should immediately certify the Morris County Solid Waste Program.

#### **HAZARDOUS SUBSTANCE/EMERGENCY RESPONSE CONTROL PROGRAM:**

##### **Purpose:**

A. To integrate the activities of the NJDEP Hazardous Substance and Emergency Response Program and the Lead Agency consistent with the findings and purpose of N.J.A.C. 26:3A2-21.

B. To ensure the maximum effective use of manpower and resources by the delegation of appropriate Haz/Mat responsibilities to the Lead Agency acting as authorized agent for the NJDEP.

C. To develop a Morris County Haz/Mat program directed to the protection of the public health and the environment.

D. To maintain public support of the Morris County Haz/Mat program through the prompt response to environmental emergencies and the satisfactory advisement to, and in consultation with, impacted citizens and local officials

E. To provide for effective communication and exchange of information between agencies.

F. To supplement and enhance the Morris County Office of Emergency Management Plan.

G. To effectively address discharges of hazardous substances which threaten public health and the environment.

## Program Standards:

A. All activities relating to spill control shall be conducted in accordance with the Discharge of Petroleum and other Hazardous Substances, N.J.A.C. 7:1E-1.1 *et seq.*, and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, *et seq.*

B. Investigate reports of spills and other releases into the environment of oil, petroleum products and other hazardous substances from any source or cause, including pipeline or tank ruptures, train derailments, highway accidents, deliberate illegal dumping of wastes (whether free flowing or drummed), leachate from landfill or abandoned dump sites, releases from industrial sites and the appearance of toxic pollutants in well water. Immediately report in a manner prescribed by NJDEP all such incidents, along with a report of all actions taken thus far.

C. In cooperation with NJDEP, participate in the removal of certain designated hazardous substances, including petroleum products which have been spilled, and in the taking of measures to prevent damage to public health, safety, welfare or the environment resulting from spills, and receive reimbursement for such activity where authorized under the Spill Compensation and Control Act and the Morris County Emergency Response and Cost Recovery Ordinance (*Appendix O.*) Act as on-site coordinator, take charge of removal activities, and report on the measures to the NJDEP. (When NJDEP acts as on-site coordinator Lead Agency through Morris County Emergency Response will furnish assistance and support when requested).

D. Investigate spill incidents in order to determine: the quantity of material released into the environment; the probable impact on public health and natural resources; the causes, persons responsible and other information needed to establish the seriousness of the incident; the remedial measures needed; and the identities of persons who may be liable for costs and damages. Make available to NJDEP and the Administrator of the New Jersey Spill Compensation Fund all information and evidence obtained from such investigations. In the event the State brings legal action, investigators and their evidence shall be available for court and pretrial proceedings.

E. Maintain, equip and implement an emergency response program comprising the elements listed below, based upon the objectives contained in the New Jersey Water Pollution Control Act N.J.S.A. 58:1A-1 *et seq.*, N.J.A.C. 7:27 Air Pollution Control *et seq.*, N.J.A.C. 17:27 Discharge of Petroleum and Other Hazardous Substances.

F. Notify the NJDEP's communications center (Action Line) within 15 minutes or immediately of any violation (N.J.A.C. 7:1E *et. al.*) or those incidents and emergencies that involve a release or potential release of hazardous materials into the environment that could result in an emergency, threatening life, property, public order, health or the environment.

G. Provide tactical and technical assistance to the NJDEP or respond unilaterally upon request of the DEP to a hazardous materials incident/emergency.

H. Provide sampling and analysis of the environment at the site of a hazardous materials incident/emergency or those regions impacted by the releases of hazardous material. Sampling and analysis protocol shall follow established standard operating procedures, standard methods and those directed by the DEP with assistance from the USEPA and other recognized authorities.

I. Maintain records, logs, correspondence and other necessary documents and samples for legal review and potential testimony. Maintain "chain of custody" for necessary samples and documents for legal presentation in court of law. Provide written reports, summaries and other necessary documents to the NJDEP in relation to gathering evidence/data on responses. Provide a monthly report to the NJDEP listing

as minimum: Location of incident, Time and duration, Nature of incident, Hazardous Materials involved, Responsible parties, Responding agents, Summary of events, Mitigation effort status, Costs incurred, General comments, Suggestions, etc.

J. Bring legal action against persons responsible for causing spills, by exercising the power to enforce environmental laws as provided in the Environmental Rights Act, N.J.S.A. 2A:35A-1 *et seq.*, when requested in writing by NJDEP.

K. Claims for reimbursement of expenses incurred for activities related to the removal of spills of hazardous substances, or the prevention or mitigation of damages arising from such spills, shall be billed to the responsible party, or possibly to the State Spill Compensation Fund in accordance with an ordinance to be adopted upon Work Plan Certification providing for additional financial resources for the responsibilities set forth under the County Environmental Health Act.

### **Implementation Generalities:**

A. The Morris County Haz/Mat Team will work cooperatively with the Lead Agency to administer the purposes and standards of this program. (See Appendix A).

B. Morris County Haz/Mat Team personnel are currently trained to respond to hazardous material incidents, collect data and prosecute responsible parties, when necessary. HAZ/MAT team personnel are to be enrolled in a Medical Surveillance Program.

C. HAZ/MAT team personnel are adequately equipped and supplied to respond to Haz/Mat incidents and accomplish the tasks set forth in the program standards. (See Appendix D).

D. Basic reference materials needed to make informed decisions as they relate to Haz/Mat incidents are available for utilization by HAZ/MAT personnel.

E. Emergency Response personnel are capable of responding to hazardous materials incidents/emergencies on a continuous 24 hour a day - 7 days a week schedule. A twenty four hour "Hotline" will be established for reporting spills.

### **Implementation Specifics:**

A. The Morris County HAZMAT Response team will continue to respond to emergency incidents throughout the county.

B. The HAZMAT Response team and the Morris County Emergency Management Coordinator shall be responsible to carry out all the program standards as listed in Section II above, except that as hereinafter articulated certain specific program responsibilities remain with the Lead Agency or the subcontracted municipal health departments.

With regard to Program Standard C, the HAZMAT team coordinator will act as the on-site coordinator and take charge of removal/containment activities during the period of emergency only. Once it has been determined by the HAZMAT team that the immediate threat to the public health, safety, and welfare has been abated, thenceforth it shall be the responsibility of the Lead Agency or the subcontracted municipal health departments to refer the case to the DEP for any long term remedial measures that may be needed.

With regard to Program Standard H, the HAZMAT response team shall provide sampling of the environment at the site of a hazardous materials incident/emergency during the period of the emergency only. Once it has been determined by the HAZMAT response team that the immediate threat to the public

health, safety and welfare has been abated, any follow up sampling and analysis of the environment shall be referred to the DEP by the Lead Agency or the subcontracted municipal health department.

C. In the event any HAZMAT incident could result in an after incident potential threat to the environment which might eventually lead to violations of Air, Water, Solid Waste, and/or Noise program standards, prevention, mitigation and remediation of the after incident exposures shall be the responsibility of the Lead Agency or the subcontracted municipal health departments, in coordination with the appropriate DEP office.

### **Incident Investigations:**

When agreed upon, NJDEP will delegate the investigation of specific incidents to the Lead Agency on a case by case basis. In any such instances, NJDEP may retain general supervision over the investigation. In those cases, the Lead Agency or its designated agent may investigate discharge incidents in order to determine: the types and quantities of materials released into the environment; the probable impact on public health, public and private property and the natural resources; the causes, persons responsible, and any other information needed to establish the seriousness of the incident; the remedial measures needed; and the identities of persons who may be liable for costs and damages.

The Lead Agency agrees that in any investigation that it is involved in, regardless of the scope of involvement, that it will comply with the criteria described in the following sections regarding incident investigations.

1. Method of Investigation - All investigations conducted pursuant to this agreement are to be performed in such a manner as to ensure the health and safety of the public as well as participating investigators. This requires adherence to all applicable health and safety regulations, policies and procedures adopted by the State to this end. These regulations and policies and procedures apply to, but are not limited to; levels of protection, qualitative respiratory fit-testing, site entry and employee chemical right-to-know.

All investigations are to be conducted in a methodical, objective and comprehensive fashion with attention to all case details and parties involved.

The investigation itself may be initiated by receipt of a telephone report, written complaint, observation or any one of numerous other methods by which the Lead Agency or its delegated agent is advised of an incident. The purpose of the investigation is to document, through objective observation and/or interviews and/or collection of physical evidence, the validity of the report. The investigation may be conducted alone, in teams or in coordination with any of several federal, state and local regulatory and criminal investigative agencies with the consent of such agencies and consistent with the provisions of this agreement. The findings of the investigation will be considered in determining future case direction including state funded cleanup, issuance of enforcement documents, sample analysis or no further action. Investigators and investigative reports are subject to subpoena and court appearance and are, therefore, required to withstand critical and often adversarial review.

2. Investigative Reports - An NJDEP approved reporting format is to be used in all hazardous substance investigative situations.

An investigative report shall be prepared by the Lead Agency investigators and submitted to his/her supervisor in an expeditious manner. Correspondence, communications, and reports prepared under terms of this agreement will be forwarded on request to the NJDEP through its Enforcement Regional, Field Offices. In the event that direct contact with the Regional Field office is not possible, alternate telephone contact may be made through the NJDEP's Environmental Action Line (609)292-7172.

The Lead Agency will make available to the NJDEP and the Administrator of New Jersey Spill Compensation Fund, all information and evidence obtained from investigations performed under this workplan. In the event the State brings legal action, investigators and their evidence shall be available to appear in court and pretrial proceedings. All such information shall also be made available to the Morris County Prosecutor's Office.

3. Sample Procedure - Samples will be collected in accordance with NJDEP sampling policy and procedure. These procedures include, among other things, sampling equipment, collection methods and storage, holding times and preservation, etc. Authorized samples will be forwarded to NJDEP through its Regional field office, unless otherwise specified. A procedure shall be established for the surrender of samples from the Lead Agency to NJDEP. NJDEP will be responsible for the analysis of such samples. Any sampling, other than that authorized by NJDEP will be analyzed at the expense of the Lead Agency or the sub-contracted municipal health departments. The decision whether to analyze any particular sample will be at the discretion of NJDEP.

#### **Implementation Schedule:**

The county HAZMAT response team will be operational by June 30, 2003.

#### **WATER POLLUTION CONTROL PROGRAM:**

##### **Purpose:**

A. To monitor and enforce the State statutes, rules, and regulations to protect and improve, wherever possible, the quality of the ground and surface waters of the State in accordance with NJDEP standard operating procedures, policies, and guidance documents.

B. To ensure the maximum effective use of manpower and resources by the delegation of appropriate enforcement responsibilities to local health agencies throughout Morris County.

C. To provide for effective communications and exchange of information between agencies.

##### **Program Standards:**

A. Conduct routine compliance monitoring inspections of public non-community potable water supplies. Conduct inspections first of those systems which are significant non-compliers (SNC), and promptly submit completed inspection reports to the NJDEP's Safe Drinking Water Program. Issue field Notices of Violations to the facility upon identification of any violations. Closely monitor whether compliance is achieved, and if further enforcement is required, either promptly undertake the enforcement action or immediately refer to the NJDEP, Safe Drinking Water Program.

B. Examine plans, issue certificates and permits and assure that water samples from newly constructed or altered non-public and public non-community water systems conform to requirements not less stringent than those current Standards for the Construction of Public Non-Community and Non-Public Water Systems, N.J.A.C. 7:10-12.

C. Advise the NJDEP of new non-community public water supplies that are approved.

D. Ensure the collection of bacteriological samples at least four times per year from non-public water systems other than those serving single family dwellings, in accordance with the provisions of N.J.A.C. 7:10-7.3(d).

E. Participate upon request of the NJDEP in special sampling of public and non-public water systems.

F. Advise consumers of public water systems of Boil Water Orders imposed by the department when requested by the latter to do so.

G. Implement bans on additional connections to public community water systems that cannot provide safe and adequate service to consumers, upon the request of the department.

H. Confer with municipal plumbing code officials and survey premises served by non-public and public non-community water systems for plumbing cross-connections not in compliance with the Plumbing Sub-Code, N.J.A.C. 5:23-3.5, of the New Jersey Standard Construction Code and, where found, secure abatement of such plumbing cross-connections. Inspect new cross-connection systems upon request by NJDEP.

I. Assure that premises are surveyed for unapproved physical connections between public community water systems and public non-community and non-public water systems; assure removal of such unapproved physical connections of installation of approved physical connections is required in accordance with N.J.S.A. 58:12A-1 *et seq.* and N.J.A.C. 7:10.

J. Maintain, or assure the maintenance of, records of all certificates, inspections, sampling analyses and actions taken relating to non-public or public water systems, cross connections, and physical connections.

K. Where violations of applicable statutes or regulations are discovered, take appropriate enforcement action under the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.*, Safe Drinking Water Act, N.J.A.C. 7:10 *et seq.*, and Environmental Rights Act, N.J.S.A. 2A:35A-1 *et seq.*

L. Integrate the enforcement of the Safe Drinking Water Act for non-public and public non-community water supply systems between the County of Morris and the NJDEP in conformance with N.J.A.C. 7:10-12.

M. Coordinate the development of new or altered non-public and public non-community water systems with the requirements of the Realty Improvement Sewerage and Facilities Act (1954) , N.J.S.A. 58:11-23 *et seq.*

N. Regulate new and altered septic system installations, review construction plans, witness soil tests, and certify installations in accordance with N.J.A.C. 7:9A *et seq.* and the Realty Improvement Sewerage and Facilities Act (1954) , N.J.S.A. 58:11-23 *et seq.*

O. Investigate all water pollution complaints received from citizens and NJDEP. These investigations include, but are not limited to, potable water contamination, unpermitted discharges to surface or ground water, improperly constructed domestic wells, and septic system malfunctions.

P. Survey streams, according to an annually established priority list, to locate outfall pipes and other sources of discharge of sewage or industrial waste into surface waters.

Q. Determine point and nonpoint sources of surface water pollution through physical inspection, dye testing and other NJDEP approved methods.

R. Plan, implement and enforce a surface water pollution control program based on objectives contained in the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.* and the Areawide Water Quality Management Plan adopted pursuant to the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 *et seq.*

S. Provide regulatory oversight for recreational beach monitoring, pollution source investigations and related activities required by Chapter 9 of the State Sanitary Code.

#### **Plan of Implementation:**

A. The Lead Agency or its authorized agent will perform regular inspections of all public transient and public non-transient water systems identified in *Appendix N* for compliance with applicable provisions of the Safe Drinking Water Act, N.J.A.C. 7:10-12.

B. Municipal health agencies throughout Morris County will continue to administer the design, construction, and operation of non-public water supplies in conformance with the Safe Drinking Water Act, N.J.A.C. 7:10-12 and the Realty Improvement Act, N.J.S.A. 58: 11-25.

C. Municipal health agencies throughout Morris County will continue to administer the design, construction, and operation of individual sewage disposal systems in conformance with N.J.A.C. 7:9A *et seq.* and the Realty Improvement Sewerage and Facilities Act (1954) , N.J.S.A. 58:11-23 *et seq.*

D. All surface water samples will be collected in compliance with NJDEP's Field Procedures Manual for Data Acquisition.

E. In order to ensure coordination of enforcement measures NJDEP shall be notified five days prior to there convening of a settlement conference or taking of court action. In addition, follow-up reports on the outcome of a settlement conference or court action, including the penalty assessment and compliance plan (if applicable) shall be forwarded to NJDEP.

#### **AIR POLLUTION CONTROL PROGRAM:**

##### **Purpose:**

A. To monitor and enforce the State Air Pollution Control Code within NJDEP's program standard operating procedures, policies, and guidance documents.

B. To ensure the maximum effective use of manpower and resources by the delegation of appropriate enforcement responsibilities to local health agencies throughout Morris County.

C. To provide for effective communications and exchange of information between agencies.

##### **Program Standards:**

A. Investigate all air pollution complaints received from citizens and NJDEP. These investigations include, but are not limited to, open burning odors, particulates, permits and certifications, and motor vehicle idling.

B. Enforce the State Air Pollution Control Code as required by the NJDEP. Notify the NJDEP Regional Field Office of all pending enforcement actions, including pre-conference and conference settlements. Conduct these enforcement actions in accordance with NJDEP's grace period policy.

C. Compile and maintain files and records to support NJDEP and county enforcement actions.

D. Conduct minor and B source facility compliance monitoring inspections of delegated facilities, including gas stations, dry cleaners, paint spray facilities, fuel oil distributors with tanks >10,000 gallons and <40,000 gallons, gasoline bulk terminals with loads <15,000 gallons of gasoline per day, and all facilities such as schools, offices, apartment and government buildings, and small businesses having the following equipment:

- { regulated boilers  $\geq$  1 million BTU/hr. and <10 million BTU/hr.
- { fuel oil tanks >10,000 gallons and <40,000 gallons
- { regulated emergency generators  $\geq$  1 million BTU/hr. and <10 million BTU/hr.
- { wood working shops
- { gasoline dispensing facilities

**Plan of Implementation:**

A. The Lead Agency will develop and maintain an inventory of delegated minor and B source facilities.

B. Compile and maintain files and records to support NJDEP and county enforcement activities.

C. In order to ensure coordination of enforcement measures NJDEP shall be notified five days prior to there convening of a settlement conference or taking of court action. In addition, follow-up reports on the outcome of a settlement conference or court action, including the penalty assessment and compliance plan (if applicable) shall be forwarded to NJDEP.

D. The Lead Agency or its delegated subcontractor will perform regular inspections of delegated minor and B source facilities for compliance with the New Jersey Air Pollution Control Code and to enforce state laws and/or regulations by the making and signing of a complaint and summons for the violation, by serving the summons upon the violator and thereafter filing the complaint promptly with a court having jurisdiction.

E. The Lead Agency and/or its designated subcontractor shall employ personnel who have training related to air pollution control disciplines, including a minimum, completion of courses entitled "Fundamentals of Air Pollution Control" and "Visual Emission Evaluation" or their equivalent. Re-certification will be required when indicated.

**NOISE CONTROL PROGRAM:**

**Purpose:**



A. To monitor and enforce the State Noise Control Regulations, N.J.A.C. 7:29 *et seq.*, within NJDEP's program standard operating procedures, policies, and guidance documents for NJDEP Noise Control Regulations N.J.A.C. 7:29 *et seq.*

B. To ensure the maximum effective use of manpower and resources by the delegation of appropriate enforcement responsibilities to local health agencies throughout Morris County.

C. To provide for effective communications and exchange of information between agencies.

**Program Standards:**

A. Respond to all noise complaints received from citizens and NJDEP, and investigate all complaints which come under the jurisdiction of the State Noise Control Regulations.

B. Initiate enforcement proceedings in a court of competent jurisdiction against violators as required by the State Noise Control Regulations.

**Plan of Implementation:**

A. Compile and maintain files and records to support NJDEP and county enforcement action.

B. Maintain certification of at least one individual on staff in the performance of noise control investigations.

**PESTICIDE PILOT PROGRAM:**

**Purpose:**

A. To ensure pesticide control compliance by monitoring activities in accordance with NJDEP protocol.

B. To ensure the maximum effective use of manpower and resources by the delegation of appropriate responsibilities to local health agencies throughout Morris County.

C. To provide for effective communications and exchange of information between agencies.

**Program Standards:**

A. Conduct routine inspections of schools, restaurants, multi-unit dwellings, public lands campgrounds, landscapers and golf courses to determine whether the owner or operator has applied or caused to be applied any pesticide, and if so, whether such application was performed in compliance with N.J.A.C. 7:30-1 *et seq.*

B. Assess, evaluate, and respond to all complaints of pesticide misuse received from citizens and notify NJDEP of all complaints which are under the jurisdiction of the State pesticide regulations and collect samples upon request of NJDEP.

**Plan of Implementation:**

A. The Lead Agency will conduct periodic educational seminars for the regulated community on proper storage, application, and disposal of pesticides and pesticide containers.

B. Compile and maintain files and records to support NJDEP and county enforcement action. Issue field notice of violation upon identification of any violations of N.J.A.C. 7:30-1 *et seq.*

C. Refer violations to NJDEP for enforcement action.

### **GEOGRAPHIC INFORMATION SYSTEM PROGRAM:**

#### **Purpose:**

To develop and maintain a Geographic Information System (GIS) which provides data support to local and State officials to assist in the identification of environmental priorities and trends which are of environmental concern and in making decisions which impact the environment such as land use planning, zoning, etc.

#### **Program Standards:**

A. Submit digital data to NJDEP as developed through county projects.

B. Send a representative to quarterly NJDEP - GIS meetings to provide a county status report, prioritize GIS applications, and assess county GIS data.

#### **Plan of Implementation:**

A. The Lead Agency will periodically meet with the County Planning Department, Office of Emergency Management, County Administrator, the Morris County Health Officers Association, the Governmental Public Health Partnership of Morris County, and any other agency to acquire data to be included in the GIS system.

B. The submission of geographically based data will be submitted in a manner and format consistent with the publication entitled, "Geographic Information System, Mapping and Digital Data Standards" as prepared by the NJDEP Bureau of Geographic and Information Analysis, December 1994 and any revisions thereof.

C. Conduct GIS projects in Morris County, in coordination with other county and municipal offices in Morris County, to support environmental health programs. These projects will be identified in conjunction with NJDEP, and will include the priority projects of mapping public non-community water systems and implementing a well head protection data collection program.

### *Appendix A*

#### **IntraCounty Agreements Part One**

**WHEREAS**, Morris County is charged with providing or arranging for the provision of environmental health services which meet the performance and administrative standards of 7:1H-2.1 *et seq.*; and,

**WHEREAS**, the environmental health services shall be administered by a full-time health officer; and,

**WHEREAS**, the health officer of the County of Morris appointed pursuant to N.J.S.A. 26:3A2.14 and N.J.S.A. 26:3A2-21 *et seq.* intends to administer the Solid Waste Management program standards (as more particularly described in County Environmental Health Act (CEHA) workplan attached hereto); and,

**WHEREAS**, the Lead Agency and the Morris County Municipal Utility Authority (MCMUA) desire to memorialize the relationship between the parties and their respective duties and responsibilities toward each other;

**NOW, THEREFORE** the parties agree to the following:

I. The MCMUA agrees to enforce the purposes and programs of the Morris County workplan, attached hereto, as it relates to the Solid Waste Program,

II. The MCMUA agrees to perform the following duties and responsibilities:

A. Monitor compliance with the rules and regulations of the NJDEP concerning the operation of solid waste facilities and the activities of solid waste collectors and haulers and take any appropriate enforcement action.

B. Enforce the Solid Waste Management Act, N.J.S.A. 13:1E-1 *et seq.* by identifying violators and returning them to compliance as quickly as possible, utilizing the enforcement powers delegated by NJDEP, if necessary. All enforcement efforts shall be coordinated with NJDEP with five day notification to NJDEP prior to the initiation of court action or settlement agreement.

C. Identify solid waste dumping, in violation of N.J.A.C. 7:26-2.2, for prosecution by the Lead Agency or its authorized agent under the direction of County Counsel.

D. Enforce the provisions of the Sanitary Landfill Operations Requirements as specified in N.J.A.C. 7:26-2.5 *et seq.* where applicable.

E. Assure that only vehicles registered with the Department and properly displaying their solid waste decals and markings are allowed to haul or dispose of solid waste pursuant to N.J.A.C. 7:26-2.5 and N.J.A.C.-7:26-3.2.

F. Assure compliance with general operational requirements for incinerators, sanitary landfills, transfer stations, processing facilities and resource facilities pursuant to N.J.A.C. 7:26-2.11.

G. Monitor compliance with the collection and haulage requirements in N.J.A.C. 7:26-3.

#### *Appendix A*

III. Method of inspection.

The purpose of a solid waste facility inspection is to observe and monitor the physical site and facility operations to determine compliance with the established statutes, rules and regulations and conditions of registration. In general, the inspection will be conducted as follows:

A. Upon arrival on site, the inspection shall contact the facility operator or person(s) having primary responsibility for facility operations.

B. The inspector shall observe the activity at the working face/tipping floor for at least one hour.

C. The inspector shall review the facility records for completeness, accuracy, and compliance.

D. The inspector shall walk the site and make general observations.

E. The inspector shall assess the facility operation for compliance with the specific engineering and operational requirements as established in the facility permit. In addition, the general operational requirements should be physically observed and assessed. Those areas of potential violations that require complex methods of measurement or technical expertise not available at the county level will be referred to NJDEP.

F. The inspector shall periodically spot check collection/hauling vehicles entering the facility for proper NJDEP registration and for waste type and waste flow regulations compliance.

G. The inspector shall observe all activity and operational requirements whether or not the county has direct enforcement responsibility in those areas. Where enforcement responsibility is not conferred or established, any potential violation observed by the county shall be immediately referred to NJDEP.

H. The inspector is also responsible for identifying, inspecting and providing enforcement assistance with regard to illegal facilities as well as exempt classes of solid waste such as on-site construction debris facility. As a minimum, the inspector shall conduct all inspections and investigation in accordance with the inspection frequency schedule provided within the CEHA workplan.

#### IV. Incident response:

A. It is recognized that the NJDEP may routinely refer incidents or complaints of violation for response by the Lead Agency or its delegated agent. Such incidents include but are not limited to:

- i. landfill fires
- ii. complaints of waste spillage
- iii. complaints of illegal solid waste activity, or dumping
- iv. complaints of violations at solid waste facilities.

B. The Lead Agency shall adhere to the specific incident response procedure established by the DEP. This procedure shall include, among other things, the method for recording the incident, screening the extent of hazard or risk of the incident, assigning staff for response, and follow-up or referral procedures.

C. The Lead Agency shall immediately refer any incident to the NJDEP that represents a significant risk or requires complex methods of measurement or technical expertise not available at the county level.

D. The Lead Agency shall specify the point of contact, and the succession of authority for response in case of an emergency that occurs during other than regular office work hours. This procedure shall be kept updated by the Lead Agency.

### *Appendix A*

#### **IntraCounty Agreements Part Two**

**WHEREAS**, Morris County is charged with providing or arranging for the provision of environmental health services which meet the performance and administrative standards of 7:1H-2.1 *et seq.*, and;

**WHEREAS**, environmental health services shall be administered by a full-time health officer; and;

**WHEREAS**, the health officer of the County of Morris appointed pursuant to N.J.S.A. 26:3A2-14 and N.J.S.A. 26:3A2-21 *et seq.* intends to administer the Solid Waste Management program standards (as more particularly described in County Environmental Health Act (CEHA) workplan attached hereto) by subdelegating enforcement of CEHA HAZMAT Response program standards to the Morris County Office of Emergency Management. and;

**WHEREAS**, the Lead Agency and the Morris County Office of Emergency Management desire to memorialize the relationship between the parties and their respective duties and responsibilities towards the other.

**NOW, THEREFORE** both parties agree to the following:

I. The Morris County Office of Emergency Management (MCOEM) agrees to enforce the purposes and programs of the Lead Agency CEHA workplan attached hereto, as it relates to the Hazardous Substances Emergency Response Control Program.

II. In that regard the MCOEM agrees to perform the following duties and responsibilities:

A. Incident Response -

1. The MCOEM shall maintain sufficiently trained personnel who will respond to, and provide NJDEP/Lead Agency requested assistance at the site of any incident which involves the actual or potential release of toxic or hazardous substances. Such situations will include, but not be limited to, all reports of spills, discharges and other releases into the environment of oil, petroleum products and other hazardous materials from any source or cause, including pipeline or tank ruptures, train derailments, highway accidents, deliberate illegal dumping of waste (whether free flowing or drummed), and releases from residential, commercial, governmental and industrial sites.

2. When NJDEP receives initial notification of an incident report, the MCOEM will be advised of the details of the incident. NJDEP retains oversight authority to assure that all remedial actions are performed in a manner consistent with all applicable statutes, rules and regulations, orders and policies. At the time of notification, NJDEP will advise MCOEM personnel to proceed in the following manner:

a. MCOEM will be notified of the incident but assistance will not be requested; or,

b. MCOEM will be notified of the incident and will proceed to the site and provide support to NJDEP as needed. Where both NJDEP and the MCOEM respond to an incident, the MCOEM's response shall be carried out under the direction and supervision of NJDEP to insure coordination of action. In such a case, should NJDEP determine that continued response by the county is unnecessarily, response will be completed by NJDEP without further assistance from the MCOEM; or,

c. MCOEM will be notified of the incident and will proceed to the site to assess the nature and extent of hazard of the incident. Where authorized by NJDEP the MCOEM will direct all assessment procedures necessary for response. During the performance of these duties, the MCOEM is required to remain in contact with NJDEP regarding all ongoing action.

3. The MCOEM shall specify the point of contact, succession of authority and procedure for response in case of an emergency that occurs during other than regular office work hours.

4. Post incident remedial activities are reserved for NJDEP, unless approved in writing by NJDEP.

B. Incident Investigation:

Investigations will be conducted by the Lead Agency with support by the MCOEM as outlined in the attached CEHA workplan.

III. Program Administration

A. Training -

1. The MCOEM shall maintain its Hazardous Substances Response and Investigation training program to include, but not be limited to, identification of the course areas, total training hours, training needs and budget.

2. The MCOEM will submit to the NJDEP through the Lead Agency annually, a listing of all hazardous response and investigate personnel, along with their Qualifications and training including, but not limited to, respiratory fit-testing certification. The MCOEM shall, also include a listing of all equipment available for emergency response operations.

B. Reporting Requirements -

1. Forms:

a. The MCOEM shall routinely report the results of all incident response and investigations, within an agreed upon number of days of such activity, to the appropriate NJDEP Regional Field Office, with attention to the Region Chief and to the Lead Agency

b. The MCOEM shall report the results of these responses and investigations on approved NJDEP forms or Lead Agency forms, if previously approved by NJDEP.

c. Sufficient quantities of forms will be inventoried and available in the offices of the MCOEM.

2. Monthly performance reports:

The MCOEM shall submit a monthly Interim Report summarizing hazardous substance activities as specified in the CEHA grant requirements.

C. Public Participation:

Where requested, the Lead Agency along with the MCOEM will assist NJDEP in public participation activities including its planning, decision making and implementation processes. This policy includes involvement, where appropriate, of elected officials, industry, public interest groups, organizations, response agencies, etc.

D. Coordination Meetings:

At least once every calendar year, the Lead Agency along with the MCOEM and the Morris County Health Officers' Association shall schedule a coordination meeting with the NJDEP to discuss this Agreement and related issues such as communication, coordination and procedures. Additional meetings may be scheduled by mutual consent.

E. Enforcement protocols:

The MCOEM agrees to follow the enforcement protocols as more particularly described in Appendix C of this workplan. Cost recovery procedures will be implemented as provided for in the "Emergency Response and Cost Recovery Ordinance for the County of Morris" (*Appendix O*).

*Appendix B*

**InterLocal Agreements**

**AGREEMENT**

**THIS AGREEMENT**, made this \_\_\_\_ day of \_\_\_\_\_, between \_\_\_\_\_, a Municipal Corporation of the State of New Jersey hereinafter referred to as the "Municipality", and the County of Mor-

ris, through the County Environmental Health Act Lead Agency hereinafter referred to as "Lead Agency". This contract made effective \_\_\_\_\_.

**WHEREAS**, the municipality has a municipal health agency as authorized by P.L. 1975, c. 329 (C. 26:3A2-1 *et seq.*); and,

**WHEREAS**, the municipality is desirous of providing environmental health services using the municipal health agency to meet the standards of performance and procedure for those activities as identified in this agreement; and,

**WHEREAS**, the municipality is willing to coordinate its environmental health programs with those of its neighbors by implementing the work program of the lead Agency; and,

**WHEREAS**, the Lead Agency is willing to subrogate its authority for those environmental inspections under the County Environmental Health Act to \_\_\_\_\_, of those facilities located within the prescribed jurisdiction of the Municipality under the terms and conditions set forth herein; and,

**WHEREAS**, it is understood by both parties that the Municipality will fulfill the requirements within the approved County Work Plan for the territorial boundaries within its jurisdiction.

**NOW THEREFORE**, in consideration of the reimbursement by the County of Morris of to the Municipality the sum as identified in the fee schedule below:

**THE PARTIES MUTUALLY AGREE AND CONVEY AS FOLLOW:**

1. The Municipality with the approval of the Lead Agency, shall provide the services of its properly trained personnel as necessary, to carry out within its jurisdiction(s), those mandated inspection services under the CEHA program as defined in the Work Plan of the County of Morris. Those areas of jurisdiction are to include \_\_\_\_\_.

2. The Municipality agrees to provide to the Lead Agency all the required CEHA inspections within the disciplines outlined per the stipulated guidelines provided by NJDEP for qualified subcontractors conducting facility inspection and complaint investigations under the CEHA Grant Contract. Those inspection areas are in Air, Noise, and Water Pollution.

The Municipality agrees to the following:

A. A Subcontractor can be reimbursed only for those actions contained within the InterLocal service agreement and performed in accordance with; a certified CEHA workplan, DEP procedure, and State and Federal laws.

B. Reimbursement shall also apply to complaint investigations initiated by the Lead Agency, a citizen, or the DEP.

C. Multiple complaints related to the same incident at a facility or location shall be counted as one complaint for reimbursement.

*Appendix B*

D. Each facility inspection reimbursement request must include a completed inspection form (062) supplied by the NJDEP.

E. Each complaint investigation reimbursement request must include a completed inspection form (062) supplied by the NJDEP.

F. To be eligible for noise complaint reimbursement investigations must constitute a facility, commercial or industrial, to residential property complaint as specified in N.J.A.C. 7:29 *et seq.*



G. Staff conducting inspections and/or investigations must have satisfactorily completed training approved by the NJDEP before conducting said inspection.

H. Payment for work performed shall be made upon receipt/completion of inspection or investigation documentation and invoice.

I. Fee Schedule (per facility/complaint inspection):

i. septic	no reimbursement
ii. well	no reimbursement
iii. solid waste	\$50.00
vi. minor air source facilities	\$50.00
v. public transient/nontransient water systems	\$50.00
vii. fugitive odors	no reimbursement
viii. noise	no reimburse

3. The Municipality agrees to provide the services of duly qualified Sanitarian Inspectors to carry out those CEHA program responsibilities and further agrees to furnish replacement inspectors during such period as any of the regular inspectors shall be on vacation or incapacitated by illness, or are otherwise unavailable. The inspection service shall be administered as planned with the Local Health Officer; further, as mutually agreed upon and authorized by the Health Officer of the Lead Agency.

4. The Municipality shall furnish any and all reports and documentation of inspection to the Lead Agency upon request. This data shall be shared by both parties to determine environmental health trends and future planning for the County of Morris.

5. The Municipality agrees to bear the cost of said inspector's automobile transportation, necessary telephone service, and clerical services for the preparation of any and all reports.

6. The Health Officer of the Lead Agency shall coordinate with the Health Officer of the Municipality the services herein provided and shall advise and assist in obtaining compliance with respect to violations of statutes, regulations, and ordinances relating to environmental public health conditions.

7. It is understood that representatives of the Lead Agency and Municipality shall meet periodically in order to unify policy and facilitate the solution of common problems and furtherance of common interests and shall meet at a time convenient to all. Joint discussions will cover mutual problems and needs, objectives, methods of obtaining objectives, and an evaluation of accomplishments.

8. The Municipality shall submit to the County of Morris a Certificate of Insurance evidencing coverage as set forth below:

- A. Comprehensive General Liability policy as broad as standard coverage form currently used in the State of New Jersey shall not be circumvented by any endorsements limiting the breadth of the coverage. The policy shall include an endorsement for contractual liability and shall include the State of New Jersey as an additional insured. The policy shall also include an endorsement for products liability. Limits of liability shall not be less

*Appendix B*

than \$500,000 per person and \$1 million per occurrence for personal injury liability and \$250,000 per occurrence for property damage liability.

- B. Comprehensive Automobile Liability policy covering owned, non-owned, and hired vehicles with a minimum of \$1 million per occurrence for property damage liability.

C. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employer's Liability Insurance with a limit of not less than \$100,000.

9. Indemnification - The Municipality shall be responsible for and shall keep, save, and hold the State of New Jersey, the Lead Agency, and the County of Morris harmless from all claims, loss, liability, expense, or damage resulting from all mental or physical injuries or disabilities, including death, to employees or recipients of the Municipalities services or to any other persons, or from any damage to any property sustained in connection with the or omission, including negligence or malpractice, of any of its officers, directors, employees, agents, servants, or independent contractors, or from the Municipalities failure to provide for the safety and protection of its employees, whether or not due to negligence, fault, or default of the Municipality. The Municipalities liability under this Agreement shall continue after the termination of this Agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

10. This Agreement shall be subject to the approval of the Morris County Board of Chosen Freeholders.

11. The terms of this Agreement may be canceled by either party upon written notice given at least six (6) months prior to the effective date of such termination. The term of this Agreement is pursuant to N.J.S.A. 40:8A-62(4).

**IN WITNESS WHEREOF**, each party has caused its authorized officials to sign and seal this Agreement on its behalf this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

The County of Morris

Attest:

\_\_\_\_\_  
, Freeholder Director

\_\_\_\_\_  
, Clerk of the Board

Municipality

Attest:

\_\_\_\_\_  
, Municipal Authorized Agent

\_\_\_\_\_  
, Secretary

#### *Appendix C*

#### **Enforcement Protocol**

The protocols set forth below are intended to provide a mechanism for the regular and timely consultation and exchange of information between the DEP; the County of Morris; the Lead Agency; and, the Local Health Agencies.

### 1. Inspection/Investigation Reports:

For each Inspection conducted or incident investigated by the Lead Agency or its authorized agent concerning any subject matter that is contained in the work program, the Lead Agency shall ensure that all relevant facts and circumstances, including the existence or absence of all elements necessary to establish a violation, are properly documented in a written report (Investigation Report) on DEP forms provided by the department therefor. The Lead Agency shall forward copies of each Report to the department within the time frames specified by the NJDEP. This procedure ensures that all relevant facts are adequately and contemporaneously documented in a uniform manner throughout the State.

### 2. Enforcement Actions:

Whenever the Lead Agency or its authorized agent identifies a violation of any environmental health law, rule, regulation or ordinance for which the Lead Agency or its authorized agent has been certified by the department to enforce, the Lead Agency or its authorized agent shall issue a Notice of Violation - ("NOV") to the alleged violator within 15 days of identifying the violation including at the time of inspection or investigation. The NOV shall identify the specific statute, rule, regulation or ordinance violated, the non-compliant activity or condition constituting a violation, the date upon which the non-compliant activity or condition must be remedied or abated, and the maximum penalty that may be imposed by law. This minimum information shall be provided in each NOV. Once an NOV is issued, the Lead Agency or its authorized agent may exercise its prosecutorial discretion to pursue a settlement or initiate a civil action seeking appropriate relief. No offer of settlement will be made in cases of violations which are repetitive, egregious in nature; and/or seriously impacted public health or the environment.

### 3. Penalty Enforcement Notifications:

The Lead Agency shall notify the department at least five working days prior to initiating a settlement hearing or civil action in Superior Court to collect a penalty or seek other relief in connection with any violation. Notice shall be provided by telefacsimile to the DEP, and may include a list of actions the Lead Agency anticipates initiating over a 30 days period. The prior express approval of the DEP to proceed with a particular enforcement action identified in the five day notice is not required, except the Lead Agency shall refrain from initiating any action at the request of the DEP. Civil or criminal investigations and enforcement actions maybe unwittingly impaired by the initiation of a local enforcement action taken without prior consultation with the department. Accordingly, the purpose of the five day notice is to provide a mechanism for routine and timely consultation between the department and the Lead Agency regarding enforcement actions.

The Lead Agency or its authorized agent shall prosecute all violations of any environmental health law, rule, regulation or ordinance identified by the county after the certification date by initiating a civil action.

### 4. Penalties:

To ensure that the DEP and the Lead Agency or its authorized agent pursue consistent penalty policies, Whenever a violation is prosecuted and the Lead Agency seeks to collect a penalty, the Lead Agency shall calculate a penalty based upon the penalty policies and criteria adopted by the department and

#### *Appendix C*

set forth in Title 7 of the New Jersey Administrative Code. Having determined the appropriate penalty based upon the department's penalty policies, the Lead Agency shall petition the court to impose the penalty so determined. This is not intended to preclude the Lead Agency or its authorized agent from negotiating, settling and compromising any matter on terms and conditions that are consistent, equitable, promote compliance and acceptable to the court. Each settlement shall include, at a minimum, an agreement by the violator to achieve full compliance within a specified period of time that shall be reasonable under all of the circum-

stances. The terms and conditions of each settlement shall be in writing and may provide for the payment of a penalty that is less than the amount calculated as described above if the DEP concurs that such a penalty reduction is appropriate. Any penalty reductions below those penalties set forth in DEP regulations must meet with DEP approval. The terms and conditions of settlements shall, be treated the same.

#### 5. Reporting:

The Lead Agency shall transmit to the DEP on a quarterly basis the following information regarding actions taken by the Lead Agency or its authorized agent in the preceding quarter:

(1) The number of citizen complaints received and inspections/investigations conducted in response to such complaints and the subject matter of the complaint;

(2) The number of random/periodic inspections conducted on county initiative and the subject matter of the Inspection;

(3) The number and disposition of inspections/investigations conducted pursuant to a referral from the department, and the subject matter of the Inspection;

(4) The number and disposition of enforcement actions initiated for each subject area contained in the work program;

(5) The amount of revenue collected from penalties pursuant to any environmental health statute, rule or ordinance;

(6) The amount of revenue collected from fees imposed pursuant to any environmental health statute, rule and ordinance.

(7) A summary of any litigation arising out of the work program in which the Lead Agency or its authorized agent is a named defendant.

### *Appendix D*

#### **Hazmat Equipment**

<u>Item Description</u>	<u>Quantity</u>
Interspiro SCBA	3
Hard Hats	12

Calbration Kit	1
Air Bottles	3
Cellular Telephone	1
Winter Coveralls	3
Summer Coveralls	6
Brass Tool Kit	1
Wrench H-D Rigid 24"	2
Wrench H-D Rigid 18"	2
Wrench H-D Rigid 14"	2
1991 Station Wagon	1
1991 Suburban	1
1991 F-600 Truck	1
1991 Custom Trailer	1
Zodiac Boat	1
Boat Trailer	1
Absorbent Booms	18 bags
Absorbent Pads	14 cases
Dri-Sorb	54 bags
HNU Sniffer	1
Dragger Kit	1
Disposable Chemical Suits	12
MSA O2 Meters	2
Gas Detector	1
Decon Unit	1
Pagers	10
Vehicle Radios	2
Binoculars	4
Full Face Respirator	5
Respirator Cartridges	6 cases
Matheson Gas Det.	1
Canon Camera	1
Chemical Gloves	96
Traffic Cones	10
Chlorine Kits	3

#### *Appendix E*

#### **Table of Organization** (to be developed)

#### *Appendix F*

**Personnel Roster**  
(to be developed)

*Appendix G*

**Program Phasing Plan**  
(to be developed)

*Appendix K*

**Municipal Recycling Agreements**  
(to be obtained from Morris County Recycling Coordinator)

*Appendix L*

**Morris County Municipal Health Departments**

<u>Health Department</u>	<u>Jurisdiction</u>	<u>CEHA Certification</u>
Denville Township	DENVILLE	0-Air
Herbert Yardley, Health Officer		2-Noise

1 Saint Mary's Place  
Denville, New Jersey 07834-2199  
(973)625-8305; Fax: (973)625-2491

1-Hazmat Level I

Dover Town  
Donald Costanzo, Health Officer  
Town Hall  
37 North Sussex Street  
Dover, New Jersey 07801-3991  
(973)366-2200; Fax: (973)328-6604

DOVER

0-Air  
0-Noise  
0-Hazmat

East Hanover Township  
Peter Summers, Health Officer  
411 Ridgedale Avenue  
East Hanover, New Jersey 07936-1487  
(973)428-3035; Fax: (973)428-3026

EAST HANOVER

0-Air  
2-Noise  
2-Hazmat Level I

Hanover Township  
George Van Orden, Health Officer  
P.O. Box 250  
Whippany, New Jersey 07981-0250  
(973)428-2484; Fax: (973)428-4374

HANOVER  
HARDING  
MORRIS TWP.

0-Air  
3-Noise  
4-Hazmat Level I

Jefferson Township  
Cindee DeGennaro, Health Officer  
Municipal Building, Weldon Rd.  
Lake Hopatcong, New Jersey 07849-0367

JEFFERSON

Kinnelon Borough  
Calliope Alexander, Health Officer  
Municipal Building, Kinnelon Rd.  
Kinnelon, New Jersey 07405-2392  
(973)838-5403; Fax: (9673)628-9512

KINNELON

0-Air  
0-Noise  
0-Hazmat

### *Appendix L*

<u>Health Department</u>	<u>Jurisdiction</u>	<u>CEHA Certification</u>
Lincoln Park Borough Pasquale Pignatelli, Health Officer 34 Chapel Hill Road Lincoln Park, New Jersey 07035-1998	BOONTON LINCOLN PARK RIVERDALE	0-Air 0-Noise 1-Hazmat Level I

(973)694-6100; Fax: (973)628-9512

Madison Borough  
John Theese, Health Officer  
Hartley Dodge Memorial Bldg.  
Kings Road  
Madison, New Jersey 07940-2592  
(973)593-3057; Fax: (973)593-0125

CHATHAM	0-Air
FLORHAM PARK	2-Noise
MADISON	2-Hazmat Level I
NETCONG	
MINE HILL	
MORRIS PLAINS	
MT. ARLINGTON	
LONG HILL	
VICTORY GARDEN	

Montville Township  
John Wosniak, Health Officer  
195 Change Bridge Road  
Montville, New Jersey 07045-9421  
(973)331-3316; Fax: (973) 402-0787

MONTVILLE	0-Air
MNT. LAKES	2-Noise
	0-Hazmat

Morristown  
Howard Steinberg, Health Officer  
38 Dumont Place  
Morristown, New Jersey 07963-0914  
(973)292-6700; Fax: (973)292-6663

MORRISTOWN

Mount Olive Township  
Frank Wilpert, Health Officer  
P.O. Box 450, Route 46 East  
Budd Lake, New Jersey 07828-3200  
(973)691-0900x330; Fax: (973)691-7681

MOUNT OLIVE	1-Air
	0-Noise
	3-Hazmat 40hr.
	1-Incident Command
	Tactical, Fire Chem.

Parsippany Troy Hills  
P. Wayne Croughn, Health Officer  
Municipal Building  
1001 Parsippany Boulevard  
Parsippany, New Jersey 07054-1222  
(973)263-7160; Fax: (973)299-1349

PARSIPPANY	0-Air
	0-Noise
	0-Hazmat

*Appendix L*

<u>Health Department</u>	<u>Jurisdiction</u>	<u>CEHA Certification</u>
Pequannock Township	BUTLER	0-Air
Peter Correale, Health Officer	PEQUANNOCK	0-Noise
530 Newark Pompton Turnpike		2-Hazmat Level I
Pompton Plains, New Jersey 07444-1799		
(973)835-5700; Fax: (973)835-2472		



Randolph Township  
Clement Ferdinando, Health Officer  
502 Millbrook Avenue  
Randolph, New Jersey 07869-3702  
(973)989-7050; Fax: (973)989-7076

RANDOLPH  
ROCK. BORO.

0-Air  
0-Noise  
1-Hazmat Level I

Rockaway Township  
Steven Levinson, Health Officer  
65 Mt. Hope Road  
Rockaway, New Jersey 07866-1698  
(973)627-7200; Fax: (973)627-1081

BOONTON  
CHESTER  
ROCKAWAY TWP.

0-Air  
3-Noise  
2-Hazmat Level I

Roxbury Township  
Frank Grisi, Health Officer  
72 Eyland Avenue  
Succasunna, New Jersey 07876-1622  
(973)448-2028; Fax: (973)448-2059

ROXBURY  
WHARTON

0-Air  
2-Noise  
1-Hazmat Level I

Washington Township  
Cristianna Cooke-Gibbs, Health Officer  
P.O. Box 216  
Long Valley, New Jersey 07853-0216  
(908)876-3650; Fax: (908)876-5138

WASHINGTON

0-Air  
0-Noise  
0-Hazmat

Out of County Health Services Providers

Bernards Township  
Lucy Forgione, Health Officer  
262 South Finley Avenue  
Basking Ridge, New Jersey 07920-1418  
(908)204-3070; Fax: (908)204-3075

CHESTER BORO.  
MENDHAM BORO.  
MENDHAM TWP.

*Appendix M*

**Output and Performance Guidelines**

(to be developed)

*Appendix O*

## **EMERGENCY RESPONSE AND COST RECOVERY ORDINANCE FOR THE COUNTY OF MORRIS**

An ordinance establishing a prohibition on the unauthorized or unpermitted discharge of hazardous substances, authorizing the County of Morris to initiate and conduct emergency response actions and establishing procedures thereof, and authorizing the recovery of costs by the County of Morris County Environmental Health Act (CEHA) Lead Agency from a party responsible for a discharge and establishing procedures thereof.

**BE IT ORDAINED** by the Board of Chosen Freeholders of the County of Morris:

### Section I - Authority:

This ordinance is enacted pursuant to and consistent with the County Environmental Health Act, N.J.S.A. 26:3A2-21 *et seq.*

### Section II - Purpose:

This ordinance serves to prohibit the unauthorized and unpermitted discharge of a hazardous substance within the jurisdiction confines of the County of Morris. This Ordinance also authorizes the CEHA Lead Agency to conduct emergency response actions and establishes procedures and protocols for such actions. This Ordinance further provides for the recovery of costs incurred by the CEHA Lead Agency and its agents in an emergency response action.

### Section III - Definitions:

The words and terms used in this ordinance shall have the following meaning:

"accidental discharge" shall mean those incidents which occurred unexpectedly and unintentionally, by chance or by act of God.

"agents of the certified local health agency" shall include, for the purpose of this ordinance, any municipal or other public entity which executes an InterLocal services agreement with the County of Morris CEHA Lead Agent pursuant to the Interlocal Services Act, N.J.S.A. 40:8A-1 *et seq.*, or subcontracting such as the County HAZMAT unit who agree to provide emergency response services within the geographic boundaries of the municipality or the geographic jurisdictional boundaries of the certified local health agency, provided such agreement is incorporated into the County's Work Plan pursuant to N.J.S.A. 26:3A2-33.

"certified local health agency" means the CEHA Lead Agency or designee as determine by the County of Morris Board of Chosen Freeholders.

"County" means the County of Morris, its employees, agents, officers and officials.

### *Appendix O*

"Department" means the New Jersey Department of Environmental Protection.

"discharge" means any intentional or unintentional act or omission, unless pursuant to and in compliance with a valid State or Federal permit thereof, resulting in the releasing, spilling, pumping, pouring, emitting, emptying, or dumping of any amount of a hazardous substance into the waters, or onto the land of the County, or into the waters or land outside the jurisdiction of the County when damage may result to the people, lands, waters or natural resources within the jurisdiction of the County. This definition does not include any "leak."

"leak" or "leakage" means any escape of a hazardous substance from the ordinary containers employed in the normal course of storage, transfer, processing or use, into a secondary containment or diversion system or onto a surface from which it is cleaned up and removed prior to its escape into the waters or onto the lands of the State.

"emergency response action" means any action taken by the certified local health agency, its employees, agents, contractors or municipal agency in response to a discharge or threatened discharge of a hazardous substance for the purpose of: (1) investigating its cause, source or affect, (2) initiating any action to prevent or mitigate any risk or threat to public health, safety or welfare arising out of a discharge, (3) preventing or mitigating any damage or injury to public or private property or natural resources, and (4) conducting or overseeing a remedial action.

"emergency response action costs" means all costs incurred by the certified local health agency, its employees, agents and contractors or municipal agency in connection with an emergency response action plan, including overtime costs for deployed emergency response personnel, medical and hospital treatment for injuries incurred, expendable items, and all reasonable expenses associated with the cost recovery process, including but not limited to reasonable attorney fees, court costs, litigation costs, expert fees, investigation costs, depositions, tests, copying and all out-of-pocket costs, as well as costs of towing, rigging company and technical assistance called by the County. Excluded are costs to pay volunteer responders and costs associated with Class "A" fire fighting.

"expendable items" means any items used to prevent, mitigate, suppress or contain any discharge or threatened discharge, which cannot be reused or replenished or replaced without cost after use or employment in an emergency response action. Expendable items shall include, but not be limited to, chemical extinguishing agents, adsorbents and adsorbent materials, sand, drums, containers, protective equipment and clothing, including chemical protective suits, gloves, boots, and goggles.

"hazardous substances" means for the purpose of this ordinance all substances included within the definition of "hazardous substances" under N.J.A.C. 7:1E-1.7, including all amendments and supplements thereto; all substances considered hazardous materials under 49CFR; and all substances considered hazardous waste under N.J.A.C. 7:26-1 et seq.

"municipal agency" shall mean any municipality which has a written InterLocal services agreement with the certified local health agency for cost recovery.

"municipality" means any of the incorporated municipalities within the County of Morris, including their employees, officers, and officials.

"owner or operator" means with respect to a vessel, any person owning or operating or chartering by demise such vessel; with respect to any facility or vehicle, any person owning or operating such facility or vehicle, whether lease, contract or any other form of agreement; with respect to abandoned facilities or vehicles, the person who owned or operated the facility or vehicle immediately prior to such abandonment; the owner or operator at the time of the discharge.

"person" means any entity or natural person, including without limitation, any of the following: public or private corporations, officers, directors, and shareholders of a corporation/company, companies, individuals, interstate subdivisions or agents, the State of New Jersey and any of its political subdivisions or agents; any other State and any of its political subdivisions or agents.

"responsible party" means a person who is in any way deemed responsible for a discharge of a hazardous substance, including each owner and operator and any other person obligated, without regard to fault, by law to clean up and remove a discharged hazardous substance.

#### *Appendix O*

#### Section IV - Prohibition:

The discharge of a hazardous substance is prohibited, except this prohibition shall not apply to discharges conducted in compliance with the conditions of a valid Federal or State permit or otherwise authorized by law.

#### Section V - Notification:

Any person who is in any way responsible for, or has knowledge of a discharge of a hazardous substance which occurs after the effective date of this ordinance shall immediately notify the Department "Hot Line" at 609-292-7172 pursuant to N.J.A.C. 7:1E-5.3.

#### Section VI - Liability:

Except as provided in Section IV, any person who is in any way deemed responsible for the discharge of a hazardous substance shall be liable strictly, jointly and severally for all emergency response action costs, as defined in Section III, incurred by the County, the certified local health agency, their agents, employees, contractors, subcontractors, or municipal agency and any personal or property damage incurred by the County, the certified local health agency, their agents, employees, contractors and municipal agency.

#### Section VII - Emergency Response:

a. The certified local health agency may initiate and conduct an emergency response action in response to a discharge of a hazardous substance that has occurred, is occurring or threatens to occur within the jurisdictional boundaries of the County, in accordance with the provisions of the interagency agreement executed between the Department and the certified local health agency pursuant to N.J.S.A. 26:3A2-27.

b. The certified local health agency shall be the lead agency in conducting emergency response actions and at the scene of a Hazardous Materials Incident, unless otherwise provided for in an InterLocal services agreement incorporated into the County's CEHA work program.

#### Section VIII - Inspection, Right of Entry:

a. Authorized representatives of the certified local health agency shall have the same right as an authorized representative of the Department to enter and inspect any premises, facility, site, tank, vessel, vehicle, structure, container, pipe, hose or building for the purpose of ascertaining compliance or non-compliance with the provisions of this ordinance and the provisions set forth at N.J.S.A. 7:1E-1 et seq.

b. When a discharge of a hazardous substance has occurred, is occurring, or appears imminent from a facility, site, premise, vessel, vehicle, structure, container, pipe, hose, or container at which no one is present, the certified public agency shall take reasonable steps to gain access to the facility in order to protect human health, safety, welfare and the environment.

#### Section IX - Cost Recovery:

a. The certified local health agency may recover all costs as defined in Section III incurred by it, the County, its employees, agents, contractors, subcontractors and municipal agents in connection with an emergency response action.

b. Whenever the certified local health agency seeks to recover costs pursuant to a., above, the certified local health agency shall send by certified mail, return receipt a demand letter to the responsible party or parties, which shall contain:

1. The inclusive date(s) and time(s) of the discharge, if known;  
*Appendix O*
2. The basis for the charges/liability to the extent known and as may be duly amended upon investigation, discovery and verification;
3. An itemization of the costs incurred by the certified local health agency, the County, their employees, agents, contractors, subcontractors and authorized municipal agencies in responding to the discharge;
4. A calculation sheet including hours and personnel charged, salary rates and any overhead rates; and
5. An explanation of the procedure to be followed to pay the costs demanded and the process to appeal the demand. Failure to appeal will be interpreted as acceptance of the cost recovery expenses.

Payment shall be remitted within 45 days of receipt of the demand letter.

c. Whenever the certified local health agency issues a demand letter to a party deemed responsible and the responsible party fails to appeal or remit payment within 45 days as prescribed herein, the certified local health agency may bring an action in a court of competent jurisdiction to recover the costs incurred in the emergency response action, as prescribed in Section III, under Emergency Response Action costs.

d. Failure to remit payment beyond the 46th day shall also result in a late penalty fee of 8% per year of the outstanding amount due.

e. In the event that the collecting agency is not able to collect all or partial costs from the responsible party or the New Jersey State Spill fund, the County or certified local health agency shall not be responsible to its agents or political sub-divisions for the balance due of same.

#### Section X - Penalties:

Pursuant to N.J.S.A. 26:3A2-25, N.J.S.A. 40:49-1 et seq., and N.J.S.A. 26:3-70, the State approved, certified local health agency Director or his/her designee, shall initiate legal proceedings for any violations of this ordinance.

a. It shall be a violation of this ordinance for any person to:

1. Obstruct, hinder, delay or interfere by force or otherwise the certified local health agency, any authorized governmental unit, their employees, agents or contractors in the exercising of any power, function or duty under the provision of this ordinance.
2. Prepare, utter or render any false statement, pertaining to any investigations, reports, documents, plans or specifications permitted or required under the provision of this ordinance.
3. Render, ineffective or inoperative, or fail to properly maintain, any protective equipment or system installed, or intended to be installed in any building, premise, facility, structure, site tank, vessel, vehicle, pipe, hose, container or system which was intended to detect, sense, alarm, contain, prevent, suppress or control a discharge.
4. Fail to properly maintain any equipment, vehicle, site, premise, facility, building, vessel, structure, storage container, cylinder, pipe, hose, tank or system which contains hazardous substances.
5. Violate or cause to be violated any provision of this ordinance.

b. A person who violates or causes to be violated any provision of this ordinance shall be subject to a penalty of not less than One Hundred (\$100.00) Dollars or more than Five Hundred (\$500.00) Dollars, or by imprisonment for a period of not more than six (6) months, or both, for each violation. If a violation is of a continuing nature, each day during which the violation remains shall constitute an additional and separate violation and penalty.

c. A person who violates or causes to be violated any provision of this ordinance shall also be subject to payment of reasonable litigation expenses, including but not limited to, court costs, attorney fees, investigating costs, experts expenses, depositions, tests, copying and all out-of-pocket expenses.

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#### Section XI - Construction and Severability:

a. This ordinance is to be liberally constructed to effectuate the purpose herein described. Nothing herein is to be constructed as repealing or abridging the emergency powers of any agency of government except to the extent expressly set forth herein.

b. If any section, subsection, paragraph, sentence, clause, phrase, or word contained in this ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect.

Section XII - Repealer:

a. Any ordinance or portion thereof enacted by the County, any municipality, board of health, or other public entity within the County of Morris that is inconsistent with or stands as an obstacle to the effective implementation of this ordinance shall be superseded by this ordinance and are hereby repealed.

b. To the extent that any municipality has adopted an ordinance duly approved by the NJDEP that provides for cost recovery of their own, this ordinance does not supersede or obligate the municipality/political sub-division to utilize the County to obtain cost recovery.

Section XIII - Deposit of Moneys;

The collection of all emergency response and cost recovery expenses, fund moneys, penalties, late fee(s) and interest, including all litigation costs, fees and expenses, shall be deposited within the established Environmental Quality and Enforcement Fund. Said moneys shall be dedicated to the use of the County Lead Agency or certified local health agencies in carrying out its responsibilities under this ordinance and the County Environmental Health Act.

Section XIV - Effective Date:

This ordinance shall take effect 90 days after the adoption by the Morris County Board of Chosen Freeholders, subject to the approval of the Commissioner of the Department of Environmental Protection pursuant to N.J.S.A. 26:3A2-27.